

103D CONGRESS
1ST SESSION

S. 1717

To amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Mr. MITCHELL (for himself, Mr. HATFIELD, Mr. KENNEDY, Mr. SIMPSON, and Mr. MOYNIHAN (by request)) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “John F. Kennedy Cen-
5 ter Act Amendments of 1993”.

1 **SEC. 2. BUREAU, BOARD OF TRUSTEES, AND ADVISORY**
2 **COMMITTEE.**

3 Section 2 of the John F. Kennedy Center Act (here-
4 after referred to as the “Act”) (20 U.S.C. 76h) is amend-
5 ed—

6 (1) by redesignating subsections (a), (b), and
7 (c) as subsections (b), (c), and (d);

8 (2) by inserting before subsection (b) (as redes-
9 ignated in paragraph (1)) the following new sub-
10 sections:

11 “(a) The Congress finds that—

12 “(1) the late John Fitzgerald Kennedy served
13 with distinction as President of the United States,
14 and as a Member of the Senate and the House of
15 Representatives;

16 “(2) by the untimely death of John Fitzgerald
17 Kennedy this Nation and the world have suffered a
18 great loss;

19 “(3) the late John Fitzgerald Kennedy was par-
20 ticularly devoted to education and cultural under-
21 standing and the advancement of the performing
22 arts;

23 “(4) it is fitting and proper that a living insti-
24 tution of the performing arts, designated as the Na-
25 tional Center for the Performing Arts, named in the
26 memory and honor of this great leader, shall serve

1 as the sole national monument to his memory within
2 the city of Washington and its environs;

3 “(5) such a living memorial serves all of the
4 people of the United States by preserving, fostering
5 and transmitting the performing arts traditions of
6 the people of this Nation and other countries by pro-
7 ducing and presenting music, opera, theater, dance
8 and other performing arts; and

9 “(6) such a living memorial should be housed in
10 the John F. Kennedy Center for the Performing
11 Arts, located in the District of Columbia.”;

12 (3) in subsection (b) (as redesignated in para-
13 graph (1))—

14 (A) in the first sentence, by inserting “as
15 the National Center for the Performing Arts, a
16 living memorial to John Fitzgerald Kennedy,”
17 after “thereof”; and

18 (B) in the second sentence, by striking
19 “Chairman of the District of Columbia Recre-
20 ation Board” and inserting “Superintendent of
21 Schools of the District of Columbia”;

22 (4) by amending subsection (c) (as redesignated
23 in paragraph (1)) to read as follows:

24 “(c) The general trustees shall be appointed by the
25 President of the United States and each such trustee shall

1 hold office as a member of the Board for a term of 6 years,
2 except that—

3 “(1) any member appointed to fill a vacancy oc-
4 ccurring prior to the expiration of the term for which
5 such member’s predecessor was appointed shall be
6 appointed for the remainder of such term;

7 “(2) a member shall continue to serve until
8 such member’s successor has been appointed; and

9 “(3) the term of office of a member appointed
10 prior to the date of enactment of this subsection
11 shall expire as designated at the time of appoint-
12 ment.”;

13 (5) in subsection (d) (as redesignated in para-
14 graph (1))—

15 (A) in the first sentence, by inserting “of
16 the United States” after “President” and be-
17 fore “may”;

18 (B) in the fourth sentence, by striking
19 “in” after “cultural activities to be carried on”
20 and substituting “by”; and

21 (C) by inserting a period after “compensa-
22 tion” and striking the remainder of the last
23 sentence.

24 “(6) EFFECTIVE DATE FOR CERTAIN APPOINT-
25 MENTS.—The appointment made pursuant to the

1 amendment made by clause (ii) of subsection (3)(B)
2 shall not commence until the expiration of the term
3 of the Chairman of the District of Columbia Recre-
4 ation Board, serving as a Trustee of the John F.
5 Kennedy Center for the Performing Arts on the date
6 of enactment of this Act.”.

7 **SEC. 3. PRESENTATIONS, PROGRAMS, FACILITIES FOR AC-**
8 **TIVITIES, AND MEMORIAL IN HONOR OF THE**
9 **LATE PRESIDENT; RESTRICTION ON ADDI-**
10 **TIONAL MEMORIALS.**

11 Subsection (a) of section 4 of the Act (20 U.S.C. 76j)
12 is amended to read as follows:

13 “(a)(1) The Board shall—

14 “(A) present classical and contemporary music,
15 opera, drama, dance and other performing arts from
16 the United States and other countries;

17 “(B) promote and maintain the Center as the
18 National Center for the Performing Arts by—

19 “(i) developing and maintaining a leader-
20 ship role in national performing arts education
21 policy and programs, including developing and
22 presenting original and innovative performing
23 arts and educational programs for children,
24 youth, families, adults and educators designed

1 specifically to foster an appreciation and under-
2 standing of the performing arts;

3 “(ii) developing and maintaining, a com-
4 prehensive and broad program for national and
5 community outreach, including establishing
6 model programs for adaptation by other pre-
7 senting and educational institutions; and

8 “(iii) conducting joint initiatives with the
9 national education and outreach programs of
10 the Very Special Arts, an entity affiliated with
11 the John F. Kennedy Center for the Perform-
12 ing Arts which has an established program for
13 the identification, development and implementa-
14 tion of model programs and projects in the arts
15 for disabled individuals;

16 “(C) strive to ensure that the John F. Kennedy
17 Center for the Performing Arts education and out-
18 reach programs and policies meet the highest level of
19 excellence and reflect the cultural diversity of the
20 Nation;

21 “(D) provide facilities for other civic activities
22 at the John F. Kennedy Center for the Performing
23 Arts;

1 “(E) provide within the John F. Kennedy Cen-
2 ter for the Performing Arts a suitable memorial in
3 honor of the late President;

4 “(F) develop a comprehensive building needs
5 plan for the existing features of the John F. Ken-
6 nedy Center for the Performing Arts;

7 “(G) plan, design, and construct all major cap-
8 ital projects at the John F. Kennedy Center for the
9 Performing Arts; and

10 “(H) provide information and interpretation; all
11 maintenance, repair, and alteration of the building;
12 and janitorial, security, and all other services nec-
13 essary for operating the building and site.

14 “(2)(A) The Board, in accordance with applicable
15 law, may enter into contracts or other arrangements with,
16 and make payments to, public agencies or private organi-
17 zations or persons in order to carry out the Board’s func-
18 tions under this Act. This includes, but is not limited to,
19 utilizing the services and facilities of other agencies, in-
20 cluding the Department of the Interior, General Services
21 Administration, and Smithsonian Institution.

22 “(B) The Board shall prepare a budget pursuant to
23 sections 1104 and 1105(a) of title 31, United States Code,
24 and subject to section 1513 (b) of title 31, United States
25 Code.

1 “(C) The Board may utilize or employ the services
2 of personnel of any agency or instrumentality of the Fed-
3 eral Government or of the District of Columbia, with the
4 consent of the agency or the instrumentality concerned,
5 upon a reimbursable basis, or utilize voluntary or uncom-
6 pensated personnel.

7 “(D) In carrying out its duties under this Act, the
8 Board may negotiate any contract for an environmental
9 system, a protection system or a repair to, maintenance
10 of, or restoration of the John F. Kennedy Center for the
11 Performing Arts with selected contractors and award the
12 contract on the basis of contractor qualifications as well
13 as price.

14 “(E) The Board shall maintain the Hall of Nations,
15 the Hall of States, and the Grand Foyer in a manner that
16 is suitable to a national performing arts center that is op-
17 erated as a Presidential memorial.”.

18 **SEC. 4. OFFICERS AND EMPLOYEES, REVIEW OF BOARD**
19 **ACTIONS.**

20 Section 5 of the Act (20 U.S.C. 76k) is amended—

21 (1) in the first sentence of subsection (a), by
22 striking “Smithsonian Institution” and inserting
23 “John F. Kennedy Center for the Performing Arts,
24 as a bureau of the Smithsonian Institution,”;

25 (2) in subsection (b)—

1 (A) in the section heading, by deleting
2 “DIRECTOR, ASSISTANT DIRECTOR,” and in-
3 serting “CHAIRPERSON”.

4 (B) in the first sentence, by striking “di-
5 rector, an assistant director, and a secretary of
6 the John F. Kennedy Center for the Perform-
7 ing Arts and of” and inserting “chairperson of
8 the John F. Kennedy Center for the Perform-
9 ing Arts (hereafter in this Act referred to as
10 the ‘chairperson’), who shall serve as the chief
11 executive officer of the Center, and a secretary
12 of the Center. The chairperson may appoint a
13 senior level executive who, by virtue of the indi-
14 vidual’s background, shall be well suited to be
15 responsible for facilities management and serv-
16 ices and who may, without regard to the provi-
17 sions of title 5, be appointed and compensated
18 with appropriated funds, provided that com-
19 pensation does not exceed the maximum rate of
20 pay under section 5376, of title 5, United
21 States Code, for Senior-Level IV positions,
22 and”.

23 (C) in the last sentence by striking “direc-
24 tor, assistant director,” and inserting “chair-
25 person”; and

1 (3) by redesignating subsection (c) as sub-
2 section (e) in this section, and amending it to read
3 as follows:

4 “(e) The actions of the Board relating to performing
5 arts and to payments made or directed to be made by it
6 from any trust funds shall not be subject to review by any
7 officer or agency other than a court of law.”; and

8 (4) by adding after subsection (b) the following
9 new subsections:

10 “(c) TRANSFER.—The property, liabilities, contracts,
11 records, and unexpended balance of appropriations, au-
12 thorizations, allocations and other funds employed, held,
13 used, arising from, available to or to be made available
14 in connection with the functions transferred from the Sec-
15 retary of the Interior by enactment of this law, subject
16 to section 1531 of title 31, United States Code, shall be
17 transferred to the Board as the Board and the Secretary
18 of the Interior may determine, but not later than October
19 1, 1995. Unexpended funds transferred pursuant to this
20 subsection shall be used only for the purposes for, and
21 subject to the terms under, which the funds were originally
22 authorized and appropriated.

23 “(d) TRANSFER OF PERSONNEL.—Employees of the
24 National Park Service assigned to duties related to those
25 functions being undertaken by the Board will be trans-

1 ferred with their functions to the John F. Kennedy Center
2 Board of Trustees not later than October 1, 1995. These
3 employees shall remain in the Federal competitive service
4 retaining all benefits and rights provided under title 5 of
5 the United States Code. For a period of not less than
6 three years, transferred employees will retain the right of
7 priority consideration under merit promotion procedures
8 or lateral reassignment for all vacancies within the De-
9 partment of the Interior. All United States Park Police
10 employees assigned to the John F. Kennedy Center will
11 remain employees of the National Park Service. Appro-
12 priations provided for the John F. Kennedy Center for the
13 Performing Arts will bear all costs associated with adverse
14 action or grievance procedures resulting from this transfer
15 of function, and from the abolishment of law enforcement
16 and security services performed by the United States Park
17 Police which are incurred during the transition period
18 when the United States Park Police are performing func-
19 tions within the building and site of the John F. Kennedy
20 Center for the Performing Arts. Nothing contained herein
21 shall, following the transfer specified herein, be deemed
22 to prohibit the Board of Trustees from reorganizing func-
23 tions at the Center in accord with the law governing such
24 reorganizations.”.

1 **SEC. 5. OFFICIAL SEAL, BOARD VACANCIES, AND QUORUM,**
 2 **TRUSTEE POWERS AND OBLIGATIONS, RE-**
 3 **PORTS, NATIONAL PARK SERVICE INTERPRE-**
 4 **TIVE FUNCTIONS, SUPPORT SERVICES, RE-**
 5 **VIEW AND AUDIT, SECRETARY OF THE INTE-**
 6 **RIOR'S FUNCTIONS, ESTABLISHMENT OF**
 7 **FUND.**

8 Section 6 of the Act (20 U.S.C. 761) is amended—

9 (1) in subsection (c)—by striking “its” and in-
 10 serting “the Board’s”;

11 (2) by striking subsection (e); and

12 (3) by striking subsection (f) and inserting the
 13 following new subsections—

14 “(f) The General Accounting Office shall review and
 15 audit, at least every 3 years, the accounts of the John
 16 F. Kennedy Center for the Performing Arts for the pur-
 17 pose of examining expenditures of funds appropriated
 18 under authority provided herein.

19 “(g) The functions of the Board funded by amounts
 20 appropriated under section 12 shall be subject to the re-
 21 quirements of the Inspector General Act of 1978, as
 22 amended. The Inspector General of the Smithsonian Insti-
 23 tution is authorized to carry out the requirements of that
 24 Act on behalf of the Board, on a reimbursable basis.

25 “(h) The Board may procure insurance against any
 26 loss in connection with its property and other assets ad-

1 ministered by it. The Board's employees and volunteers
2 shall be deemed civil employees of the United States with-
3 in the meaning of the term 'employee' as defined in section
4 8101 of title 5, United States Code, except that the Board
5 shall continue to provide benefits with respect to any dis-
6 ability or death resulting from an injury to its non-appro-
7 priated fund employees pursuant to the District of Colum-
8 bia workers compensation statute; and such benefits,
9 whether under workers compensation statutes or the Fed-
10 eral Employees Compensation Act, shall continue to be the
11 exclusive liability of the Board and the United States with
12 respect to all employees and volunteers; but in no cir-
13 cumstance may an employee bring suit against the United
14 States under the Federal Tort Claims Procedure, chapter
15 171 of title 28 of the United States Code, for disability
16 or death resulting from personal injury sustained while in
17 the performance of the employee's duties for the Board.

18 “(i) Any settlement, award or judgment, made or en-
19 tered pursuant to chapter 171 of title 28 of the United
20 States Code, arising from any act or omission of a Ken-
21 nedy Center Board employee in the performance of a
22 nonappropriated fund activity, shall be paid only from
23 funds available to the Board for its performing arts activi-
24 ties.”.

1 **SEC. 6. TECHNICAL AMENDMENT.**

2 Section 10 of the Act (20 U.S.C. 76p) is amended—

3 (1) by striking “he” and inserting “the Sec-
4 retary”; and

5 (2) by striking “his” and inserting “the Sec-
6 retary’s”.

7 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

8 The Act is amended by inserting at the end thereof
9 the following new section 12 (20 U.S.C. 76r):

10 **“SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

11 “(a) MAINTENANCE, REPAIR AND SECURITY.—There
12 are authorized to be appropriated to the Board
13 \$12,000,000 for fiscal year 1995 and each succeeding fis-
14 cal year through fiscal year 1999 to carry out subpara-
15 graph (H) of section 4(a)(1).

16 “(b) CAPITAL PROJECTS.—There are authorized to
17 be appropriated to the Board \$9,000,000 for fiscal year
18 1994 and each succeeding fiscal year through fiscal year
19 1999 to carry out subparagraphs (F) and (G) of section
20 4(a)(1).

21 “(c) FEDERAL FUNDS.—No funds appropriated pur-
22 suant to this section shall be used for the direct expenses
23 incurred in the production of performing arts attractions,
24 or for personnel (including supplies equipment used by
25 them) who are involved in performing arts administration,
26 or for production, staging, public relations, marketing,

1 fundraising, ticket sales and education. However, funds
2 appropriated directly to the Board shall not affect nor di-
3 minish other Federal funds sought for performing arts
4 functions and may be used to reimburse the Board for
5 that portion of costs that are Federal costs reasonably al-
6 located to building services and theater maintenance and
7 repairs.”.

8 **SEC. 8. DEFINITIONS.**

9 The Act is amended by inserting at the end thereof
10 a new section 13 (20 U.S.C. 76s)—

11 **“SEC. 13. DEFINITIONS.**

12 “For the purpose of this Act—

13 “(1) the term ‘capital projects’ means capital
14 repairs, replacements, improvements, rehabilitations,
15 alterations and modifications to the existing features
16 of the John F. Kennedy Center for the Performing
17 Arts building and the site, including the theaters,
18 garage, plaza, and building walkways;

19 “(2) the term ‘maintenance, repair and security
20 services’ means all services and equipment necessary
21 to maintain and operate the existing features of the
22 John F. Kennedy Center for the Performing Arts
23 building and the site, including the theaters, garage,
24 plaza, and building walkways in a manner consistent

1 with the requirements for high quality operations;
2 and

3 “(3) the term ‘building and site of the John F.
4 Kennedy Center for the Performing Arts’ and
5 ‘grounds of the John F. Kennedy Center for the
6 Performing Arts’ mean the site in the District of
7 Columbia on which the John F. Kennedy Center
8 building is constructed and which extends to the line
9 of the west face of the west retaining walls and
10 curbs of the Inner Loop Freeway on the east, the
11 north face of the north retaining walls and curbs of
12 the Theodore Roosevelt Bridge approaches on the
13 south, the east face of the east retaining walls and
14 curbs of Rock Creek Parkway on the west, and the
15 south curbs of New Hampshire Avenue and F Street
16 on the north.”.

17 **SEC. 9. RULES AND REGULATIONS.**

18 Sections 193r, 193u and 193v of title 40 are amend-
19 ed as follows:

20 (1) Section 193r of title 40, United States
21 Code, is amended by striking “and” after “Institu-
22 tion” and substituting a comma, and by adding “,
23 and the trustees of the John F. Kennedy Center for
24 the Performing Arts,” after “National Gallery of
25 Arts”;

1 (2) Section 193u of title 40, United States
2 Code, is amended by striking “and” after “Institu-
3 tion” where “Institution” twice appears, and sub-
4 stituting in both places a comma, and by adding “,
5 and the Trustees of the John F. Kennedy Center for
6 the Performing Arts,” after “National Gallery of
7 Art” in both places where “National Gallery of Art”
8 appears; and

9 (3) Section 193v of title 40, United States
10 Code, is amended by adding a new subsection (3)—

11 “(3) The site of the John F. Kennedy Center
12 for the Performing Arts, which shall be held to ex-
13 tend to the line of the west face of the west retain-
14 ing walls and curbs of the Inner Loop Freeway on
15 the east, the north face of the north retaining walls
16 and curbs of the Theodore Roosevelt Bridge ap-
17 proaches on the south, the east face of the east re-
18 taining walls and curbs of Rock Creek Parkway on
19 the west, and the south curbs of New Hampshire
20 Avenue and F Street on the north.”.

21 ○